

REMARKS

Claims 1-25 are currently pending in this application. Claims 1 and 12 have been amended. Please cancel claims 23-25 without prejudice. Claims 26-27 are new.

Claims 1-3, 9, 11, 12, 16, 17 and 19-25 have been rejected under 35 U.S.C. § 102 as being anticipated by Mitchell. Claims 5, 6, 10, 13, and 14 have been rejected under § 103 as being obvious over Mitchell in view of Newton. Claims 4, 7, 8, 15 and 18 have been deemed allowable. Claims 23-25 have been cancelled, such that the rejections thereto are moot.

Applicant respectfully requests reconsideration of the remaining rejected claims in view of this Amendment.

Independent claim 1 is directed towards "A skirt for a boat hoist." Claim 12 similarly is directed towards "A boat hoist skirt." The Mitchell patent cited against claims 1 and 12 is not directed towards a skirt for a boat hoist. Rather, Mitchell is a cover for a floating boat dock. There is no boat hoist disclosed in Mitchell.

It is clear from Federal Circuit case law that every word in a claim must be given meaning. Exxon Chemical Patents, Inc. v. Lubrizol Corp., 64 F.3d 1553, 1557 (Fed. Cir. 1995). Claim limitations defining the subject matter of the invention can never be disregarded. In re Sabatino, 480 F.2d 911, 913 (CCPA 1973). The Patent Office Board of Appeals has also explained that in interpreting claims, "the presumption is that every word is meaningful." Sabatino, 480 F.2d at 912.

Thus, the requirements in claims 1 and 12 that the skirt is for a boat hoist cannot be ignored.

The preamble of claim 1 further provides that the boat hoist has a canopy frame. The body of claim 1 following the preamble further defines the relationship between the skirt and the

hoist, in that the panels are adapted to hang from the canopy frame, and a rear panel extends across the rear of the hoist. With regard to such preamble limitations, the Federal Circuit has explained,

"In general, a preamble limits the [claimed] invention if it recites essential structure or steps, or if it is 'necessary to give life, meaning, or vitality' to the claims. (citations omitted). [A] claim preamble has the import that the claim as a whole suggests for it. In other words, when the claim drafter chooses to use both the preamble and the body to define the subject matter of the claimed invention, the invention so defined, and not some other, is the one the patent protects."

Eaton Corp. v. Rockwell Int'l Corp., 66 USPQ2d 1271, 1276 (Fed. Cir. 2003).

The requirements in claim 1 regarding the relationship between the door and rear panels with respect to the hoist cannot be ignored.

Since Mitchell does not disclose a boat hoist or a boat hoist skirt, claims 1 and 12 distinguish over the cited Mitchell patent.

Claim 1 has also been amended to require that one of the panels is a "side door panel moveable between a closed position and an open position to provide access to a side of the boat."

Claim 12 has also been amended to provide for "a door in one of the side panels moveable between raised and lowered positions." The Mitchell patent does not have such a side door panel or door in the side panels, as required by claims 1 and 12. The side panel 17 of Mitchell is not a door. The extended length of the Mitchell panel 17 precludes the panel, or any portion of it, from being moved between open and closed positions as a door. The ability of a person to climb under the draped panel 17 does not make it a door. There is no suggestion in Mitchell that the panel 17 functions as a door or should be opened for access to the boat. In Mitchell, the side panel 17 is latched to the vertical frame members 24, 25 and to the side horizontal members 52, 53 by rope

18, as described at column 5, lines 63, 68. Thus, the side panel 17 of Mitchell does not constitute a door which can be raised and lowered or moved between open and closed positions.

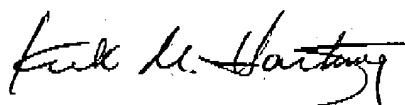
Accordingly, claims 1 and 12 distinguish over the Mitchell patent so as to be allowable. Claims 2-11 and new claim 26 depend from claim 1 and should be allowable as depending from an allowable base claim. Claims 13-22 and new claim 27 depend from claim 12, and should be allowable as depending from an allowable base claim.

New claims 26 and 27 further distinguish the invention from the Mitchell patent. Claim 26 provides that the door panel is moveable independently of the other panels. Similarly, claim 27 provides that the door is moveable independently of the panels. These limitations are not met by Mitchell.

In view of the foregoing, Applicants respectfully request that the rejections of the claims be withdrawn, and that a Notice of Allowance be issued.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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